

General Information Letter: Organizations exempt under IRC Section 501(a) are subject to Illinois income tax and have return filing requirements only if they have unrelated business taxable income.

September 27, 1999

Dear:

This is in response to your letter dated August 25, 1999, in which you requested information regarding the filing and registration requirements necessary for your client, a 501(c)(3) charitable organization, to conduct business in Illinois. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter you have stated the following:

We represent a client who is a Section 501(c)(3) charitable organization, exempt from U.S. income tax and not a private foundation for federal tax purposes. This organization is contemplating conducting business in your state and needs information regarding the necessary filings and registrations for state purposes.

We are writing to request a package of information regarding the registration and filing requirements for a 501(c)(3) organization which is not a private foundation. Please send us information covering the following items where applicable: registration forms with Secretary of State or Attorney General, applications for exemption from sales and use real property tax and/or personal property tax, employment tax registration forms and filing requirements, state filing requirements and tax forms for unrelated business income, and state filing requirements for the organization's information return (Federal Form 990).

We sincerely appreciate your response to this request and look forward to receipt of these materials at your earliest convenience. Please send the materials to the undersigned at the above address. If you have any questions, please contact me at 216-875-8326.

### **Response**

This letter addresses the information you requested on new business registration with the Illinois Department of Revenue ("the Department"), the withholding tax requirements and the unrelated business taxable income filing requirements for an IRC Section 501 organization. The information you requested on application for exemptions under the Retailer's Occupation Tax Act will be sent to you separately.

The Illinois new business registration kit enclosed, which includes an Illinois Business Registration Form NUC-1, must be completed by any organization, including an IRC Section 501(a) exempt organization, that intends to conduct business in Illinois. As well, every employer required to deduct and withhold

Illinois income tax must complete and file the Form NUC-1 in order to register a withholding agent and to determine the employer's filing requirement. See 86 Ill. Adm. Code, Section 100.7040. Any employer maintaining an office or transacting business in Illinois must withhold tax on compensation paid in Illinois. See Section 701 of the Illinois Income Tax Act ("IITA"; 35 ILCS 5/101 et seq.). Once it has processed the registration form and determined the filing status of an organization, the Department will issue an Illinois business tax ("IBT") number and will send the organization the appropriate withholding returns and payment forms.

In regards to the information you requested on the filing requirements for an IRC Section 501(a) organization exempt from federal income tax, such an organization is likewise exempt from Illinois income tax to the extent the organization does not have any unrelated business taxable income. See IITA Section 205(a). Where there is no unrelated business taxable income, an exempt organization under IRC Section 501(a) is automatically exempted from Illinois income tax. No application for Illinois exemption is necessary, nor is there an information return filing requirement for Illinois income tax purposes. However, an exempt organization will be subject to Illinois income tax on any unrelated business taxable income. Such income must be reported by the exempt organization on Form IL-990-T. The 1999 version of Form IL-990-T is not yet available, however, copies of the 1998 Form IL-990-T and the corresponding instructions are enclosed for your reference.

A copy of your letter has been forwarded on to the Office of the Secretary of State for a response to your request for information on registering your client as a foreign organization doing business in Illinois. Should you or your client need additional assistance in completing the new business registration kit, please contact the Central Registration Division at (217) 785-3707. Additionally, you may visit the Department of Revenue's Web site at [www.revenue.state.il.us](http://www.revenue.state.il.us).

I hope this information and the enclosed documents will be of assistance to you and your client.

Sincerely,

Jackson E. Donley  
Senior Counsel -- Income Tax